

REMARKS

Applicants have amended the specification to correct an inadvertent error in the identification of a background reference. The incorrect PCT application is directed to completely unrelated technology.

In view of the Restriction Requirement discussed below, Applicants have canceled Claims 42-60 and 65-70 but reserve the right to file one or more divisional applications directed to the canceled subject matter.

Restriction Requirement under 35 U.S.C. 121

The Office Action requires restriction to one of the following groups:

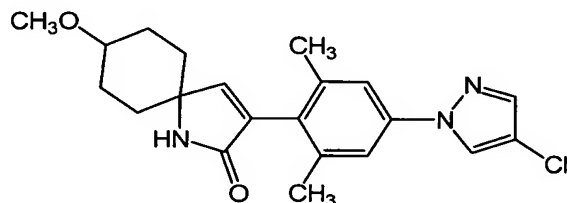
- Group I: Claims 36-41, drawn to a compound of formula (I) not within the remaining groups listed below
- Group II: Claim 42, drawn to a compound of formula (II)
- Group III: Claim 43, drawn to a compound of formula (III)
- Group IV: (no group with this number shown in the Office Action)
- Group V: Claim 44, drawn to a compound of formula (IV)
- Group VI: Claim 45, drawn to a compound of formula (VI)
- Group VII: Claim 46, drawn to a compound of formula (VIII)
- Group VIII: Claim 47, drawn to a compound of formula (IX)
- Group IX: Claim 48, drawn to a compound of formula (XI)
- Group X: Claim 49, drawn to a compound of formula (XII)
- Group XI: Claims 50 and 51, drawn to a compound of formula (XXV)
- Group XII: Claim 52, drawn to a compound of formula (XXVI)
- Group XIII: Claim 53, drawn to a compound of formula (XXX)
- Group XIV: Claim 54, drawn to a compound of formula (XXVIII)
- Group XV: Claim 55, drawn to a compound of formula (XXXII)
- Group XVI: Claim 56, drawn to a compound of formula (XXXIV)
- Group XVII: Claim 57, drawn to a compound of formula (XXXV)
- Group XVIII: Claim 58, drawn to a compound of formula (XXXVI)
- Group XIX: Claim 59, drawn to a compound of formula (XXXIX)
- Group XX: Claim 60, drawn to a compound of formula (XL)
- Group XXI: Claims 61-64, drawn to methods of using a compound of formula (I)
- Group XXII: Claim 65, drawn to a process for preparing a compound of formula (I)

Group XXIII: Claims 66-70, drawn to a composition comprising the compounds of Claim 67

The Office Action also requires an election of a single disclosed species from the elected group for the purpose of initial examination.

Applicants elect Group I with traverse with respect to Group XXI (that is, composition Claim 61 and method of use Claims 62-64) but without traverse with respect to the other groups of the Office Action. Applicants' traversal is based on the inherent relatedness of the claimed compounds of Group I and the inherent properties such compounds exhibit.

Applicants also elect for initial examination the species represented by the compound of Example I-1-a-2, which is found in the table at page 169 and can be represented by the formula



(where the carbonyl moiety $\text{HN}-\text{C}=\text{O}$ is a tautomeric form of $\text{N}=\text{C}-\text{OH}$). Applicants note that the elected compound falls within all of the elected claims of Group I but note particularly Claim 40 (with particular attention to the definition of CKE as diazole group (1) and the definition of A and B together as forming a spirocyclic C_5 - C_6 -cycloalkyl group) and process variant (A) of Claim 41 (as well as variants of Claim 41 in which the group G can be substituted hydroxyl). Applicants note further that they have provided biological data for compound -1-a-2 in the use examples, both alone (three tests) and in combination with mefenpyr. See specification at pages 231 et seq. Although Applicants believe that the structural and biological relatedness of compounds of general formula I-1-a (e.g., the table at page 169 mentioned above) suggest that examination should extend to at least those compounds in which CKE as diazole group (1), Applicants also suggest that the generally excellent biological efficacy of other compounds – noting in particular compounds of Examples I-1-a-1 (two tests), I-1-a-3, I-6-a-1, I-6-a-2 (three tests), I-6-c-1, I-7-a-1, and I-7-a-2, as well as data for combinations with mefenpyr in Examples I-1-a-6, I-1-a-7, I-2-a-5, I-2-a-6, and I-2-b-5 – support expansion of examination to compounds in which CKE can

also be the other defined groups, both as defined in Claim 40 ^{and} ~~but~~ as defined in the other claims. In any case, this election is without traverse to the extent that it is understood that (a) the restriction requirement will be withdrawn upon the finding of an allowable genus and (b) any species withdrawn from consideration will be transferred to the elected subject matter unless it is found patentably distinct from the elected or allowed claims.

REC'd
4/11/08

In view of the preceding amendments and remarks, allowance of the claims is respectfully requested.

Respectfully submitted,

By Richard E. L. Henderson
Richard E. L. Henderson
Attorney for Applicants
Reg. No. 31,619

Bayer CropScience LP
2 T.W. Alexander Drive
Research Triangle Park, NC 27709
Ph.: (919) 549-2183
Fax: (919) 549-3994

Q:patents/prosecution documents/cs8689/8689 amendment 4-11-08